



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, May 12, 2005, 7:30 p.m.
777 B Street, Hayward, CA 94541**

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m., by Chair Sacks followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS: Lavelle, McKillop, Bogue, Thnay, Peixoto, Zermeño
CHAIRPERSON: Sacks
Absent: COMMISSIONER: None

Staff Members Present: Conneely, Gaber, Patenaude, Pearson, Lens, Macias

General Public Present: Approximately 17

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARINGS

1. Site Plan Review No. PL-2005-0104 and Parcel Map No. PL-2005-0105 – Kong Yu (Applicant/Owner) – Request to Extend the Approval of Site Plan Review No. PL-2002-0374 For One Year and to Modify the Conditions of Approval for Tentative Parcel Map 7890 – The Project is Located at 28750 Hayward Boulevard, near Bailey Ranch Road

Staff report submitted by Associate Planner Pearson, dated May 12, 2005, was filed.

Associate Planner Pearson presented the staff report and handed out a revised copy of Attachment C, Conditions of Approval.

In response to Commissioner Lavelle's inquiry about the April 24, 2005 date for project approval, Associate Planner Pearson indicated that the applicant applied for the extension prior to the two year deadline.

Chair Sacks opened and closed the public hearing at 7:38 p.m.

Commissioner Thnay moved the item, seconded by Commissioner McKillop.

Associate Planner Pearson addressed Commissioner Bogue's concern regarding appropriate notification stating that the applicant was present at the meeting and the people concerned with the project were properly notified.

Commissioner Lavelle stated that she supported the motion, but requested clarification to Findings of Approval, Attachment B, item B. In reference to the applicant's financial situation language in the attachment, she suggested that it be recorded so that it does not imply that the applicant is not able to finance the project but that the applicant could not find the financing because the map was not recorded.

Commissioner Thnay moved, seconded by Commissioner McKillop, and approved, to accept that the proposed project is Categorical Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15332 *In-Fill Development Projects*; and to approve the extension and modification requests for the Site Plan Review and Tentative Parcel Map, subject to the findings and conditions presented in the report.

AYES:	COMMISSIONERS Lavelle, McKillop, Thnay, Zermefio, Peixoto CHAIR Sacks
NOES:	COMMISSIONERS Bogue
ABSENT:	COMMISSIONER None
ABSTAIN:	COMMISSIONER None

2. Zone Change Application No. PL-2004-0418 & Vesting Tentative Tract Map 7554 PL-2004-0417 – Arlene Udal for Chabot Estate Homes (Applicant) / Greg Silva (Owner) Request to Change the Zoning From a Single-Family Residential District to a Planned Development District and Subdivide 2 Acres to Build 11 New Homes and Renovate the Existing Home – The Project is Located at 2141 West Jackson Street at the End of Cryer Street Near Chabot College (Continued from April 14, 2005)

Staff report submitted by Associate Planner Pearson, dated May 12, 2005, was filed.

Associate Planner Pearson presented the staff report.

In reference to the maximum noise levels, Commissioner Peixoto inquired about the difference between the requirement of decibels (dB) in the General Plan – 55 dB and the desirable level set by the State, i.e., 60 dB. Principal Planner Patenaude indicated the Chart Figure 1 from the General Plan is a State wide standard but each community can adopt levels pertaining to what communities perceive as quality of life. He further indicated that the General Plan was amended in response to complaints from residents about noise levels. Planning Commission along with City Council were involved in setting the 55 dB standard for a residential home environment, he added.

In response to Commissioner Peixoto's inquiry about the difference between, noise levels for single family detached units and multifamily attached, Associate Planner Pearson answered by indicating that if two units were attached and were close to the sound wall, there is the possibility that the buildings might block higher noise levels in the private yard area.

Commissioner Zermefio inquired about the noise levels in present homes. Cryer Street shows levels higher than 63 dB, according to Associate Planner Pearson.



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In response to Commissioner Zermefio's inquiry about informing prospective buyers of noise levels above the General Plan standard, Associate Planner indicated that the information could be included in the conditions of approval.

Commissioner Zermefio inquired about the last paragraph of the agenda report speaking about a noise analysis. Associate Planner Pearson indicated that if the commission approves the project, staff would require a further noise analysis, which would become part of the environmental review.

Commissioner Lavelle requested for an elaboration of the grassy swale, the proposed 10-foot setback, the runoff issue, and the implications for the water. Development Review Engineer Gaber responded that the 10-foot wide swale would be able to treat the runoff from the site, but without the 5-foot wide setback from the sound wall, the plants could not survive in the swale or provide the proper coverage for the sound wall. Grassy swales need a ground cover that is very low to the surface so that the water is treated, according to Mr. Gaber. The proposed 10-foot setback is insufficient. A 15-foot would provide proper plant material to treat the water and the 5-foot would provide the proper planting to screen the wall, he added.

In response to Commissioner McKillop's inquiry about the 19 trees that are referenced in the report, Associate Planner Pearson indicated that many of the trees are in poor condition or are not compatible and therefore are proposed to be removed. He discouraged the construction of structures within the dripline of existing trees, three trees in particular.

Without further questions, Chair Sacks opened the public hearing at 8:01 p.m.

Ms. Arlene Utal, Chabot Estate Homes representative, introduced her project team and described the project. Ms. Utal indicated that the proposal includes the restoration of a house, addition of a sidewalk, placement of a two-car garage, replacement of fencing along the property, restoration of the water tower, completion of construction of the sound wall, and the construction of 11 new homes, among the particulars of the project. She added that approximately \$40,000 to \$50,000 worth of landscaping is proposed for the project as a way to replace the value of the trees removed. The units range from 2000 to 2200 feet.

Ms. Utal showed an example of how historic homes can be restored into 4-bedroom homes. Street lights would be of a historic or have Victorian appearance. Ms. Utal also asked for rezoning to restore the historic house, make smaller lots to make the project work, and bring 11 new single family homes to the community.

In response to Commissioner Zermefio's inquiry about plans for the historic house, Ms. Utal responded that she is planning to market it as a historic site. She added that the Historic Society has showed support for its restoration.

In response to Commissioner Zermefio's question about lot 11, Ms. Utal responded by stating that

since houses 1, 10, and 11 exceed the standard sound levels, she would recommend noticing in the homeowners deed that the sound level exceeds the City guidelines for exterior noise by three decibels. The elimination of the three houses would not mitigate the sound levels but rather would move sound levels down to the other eight homes. She also added that house lot 1 would be sold with a disclaimer about the long driveway. She noted that since this is a PD zoning, there is room to deviate from the standard set by the RS zoning.

Al Reynolds, homeowner on Cryer, expressed concern for lack of parking for all the units. Referring to traffic concerns and with the 880-92 interstate project expected to commence in 2008, he asked the applicant to work with the homeowners association and the City to place speed bumps on Cryer Street.

Attorney Mark Armstrong expressed that staff decided they would like to see a development with potential for multifamily homes which would require a General Plan Amendment to be in consistence with the adjoining single family neighborhood. He emphasized that it is not a legal requirement that a project be consistent with every policy and guideline in the General Plan.

Chair Sacks asked to have more input from the different experts representing the project.

Mark Hulbert, preservation architect, expressed that there has been major effort to restore this house and consolidate the carriage house and water tower onto a single property.

Richard Kruezen, civil engineer, elaborated on the proposed 10-foot wide grassy swale. Mr. Kruezen indicated that in the 10-year storm event, only a third of the swale is occupied by water- 3-foot on each side and 3.3-foot in the center. In a 100-year storm there is only 4-foot in the center that would be occupied from the runoff. He added that an acceptable solution would be a mechanical cleaning device swale as a conveyance for the storm water and partial cleaning and the mechanical device with the remaining cleaning, he suggested.

Michael Toy, acoustical engineer, expressed that the three decibels is barely noticeable increase. Mr. Toy expressed that a 13-foot sound wall already exists along the off ramp at the freeway to mitigate the 69 dB level behind the wall, and that a double sound wall would not improve the situation very much.

Addressing Commissioner Thnay's inquiry of whether the 63 dB level in the backyard would harm the ear drum, Mr. Toy indicated that a noise level of 80 db for a period of eight hours would cause ear damage.

Commissioner Peixoto inquired about a configuration that would reduce the levels to acceptable standards below 60 dB levels. Mr. Toy indicated that they could build a sound wall 10 or 11-foot tall between lots 1 and 11 to achieve the reduction but, he was unsure of the cost effectiveness.

In response to Commissioner Zermeno's inquiry about worse hours for loud noise, Mr. Toy indicated that the loudest hours would be at 6 a.m. with noise levels at 61 dB and 7:00 a.m. at 60 dB. Noise levels in the afternoon up to 9:00 p.m. would be below 55 dB.

Ms. Utal expressed that after conferring with her team, they decided to reach a fair compromise to



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not pre-sell the three units with decibels above 60. She also added that they are willing to add a noticing to the deed about the noise levels.

Chair Sacks closed the public hearing at 8:39 p.m.

Principal Planner Patenaude expressed that the main purpose for recommending denial of this project is not only the noise level, but also to encourage a Planned Development District that will foster well designed development as suggested in the current General Plan. The noise levels and driveway of lot 1, in particular, are situations that might be less than desirable. He indicated that at this point staff does not know if the swale and buffer will affect the layout of the project. Two of the properties do not have the standard open space that single-family homes typically have in the yard.

In response to the inquiry made by Chair Sacks and Commissioner Bogue about the driveway on lot 1, Development Review Engineer Gaber indicated that the concern related to parking and cars having to back into the street.

In response to Commissioner Bogue's concern if the homeowners association would be responsible for the mechanical cleaning procedure, Development Review Engineer Gaber stated that as part of the clean water permit the homeowner association would need to record a maintenance agreement for the grassy swale and the mechanical device.

In response to Commissioner Zermeno's inquiry for considering the property as open space for a park, Associate Planner Pearson stated that the site is identified in the General Plan as a potential park site for the Mt. Eden neighborhood but because of its secluded location the Hayward Area Recreation and Park District expressed no interest for acquiring it for a park.

Deputy City Attorney Conneely advised Commissioner Zermeno on the proper action to take.

Commissioner Zermeno moved, seconded by Commissioner Thnay.

Chair Sacks added that the motion should include language for protection of prospective buyers, change the condition regarding the swale and add the no pre-selling condition to three of the homes.

Commissioner Thnay supported the motion but expressed that he would like to see an updated noise analysis and information on the 880-92 interchange project. He liked the location and the fact that the historic house is preserved and not moved somewhere else.

Commissioner Bogue indicated that he does not support the driveway on lot #1. He likes the swale idea, would like clarification on the updated noise analysis, supports the no pre-sale idea, and would like for all the properties to be noticed that the three properties are above the standard noise levels.

Commissioner McKillop supported the motion and expressed that she liked the historical preservation efforts of the project. Her concerns expressed included the grassy swale and trees that could mitigate the noise. She agreed with the sound issue and the swale as long as it is mechanically designed to accommodate what the swale was intended to do initially. She expressed concern for the basic design of the exterior of the building and the way they are positioned. She favors measures to save existing trees.

Commissioner Lavelle supported the motion and commended the developers for their efforts. She agreed with the noise levels compromise. She liked the mechanical device idea but does not support the driveway on lot # 1. She would like to see improvement for the turn around at lot 1.

Commissioner Bogue asked for a friendly amendment to the motion speaking to noticing all prospective homeowners of the noise levels and to the no pre-sale for the three homes. He would like to include the possibility of not allowing additional construction on open space.

Chair Sacks would like to have more information about the diseased trees. Regarding Commissioner Zermeño's request to include speed humps on Cryer, Chair Sacks noted that this was outside the scope of the Planning Commission action.

Commissioner Zermeño moved, seconded by Commissioner Thnay, and approved to direct staff to conduct the appropriate level of environmental review, work with the applicant on modifications to the conditions that staff would support, add language for prospective buyers informing of noise levels above those recommended in the General Plan, and bring the matter back to Planning Commission with findings and conditions of approval.

AYES:	COMMISSIONERS Lavelle, McKillop, Thnay, Zermeño, Peixoto
	CHAIR Sacks
NOES:	COMMISSIONER Bogue
ABSENT:	COMMISSIONER None
ABSTAIN:	COMMISSIONER None

ADDITIONAL MATTERS

4. Oral Reports on Planning and Zoning Matters

Principal Planner Patenaude reported about a flyer regarding a program on affordable housing, Density and Property Management, which is sponsored by the Association of Bay Area Governments on Monday, June 6, from 7:30 – 9:30.

5. Commissioners' Announcements, Referrals

Commissioner Thnay announced that he drove by Strafford Village Area, across the Starbucks business, and noticed a vacant lot that has six-foot tall weeds. Also, he expressed that residents have complained about trucks parked on Adison Way during the day and at night. He expressed that the area which is on the south area of Industrial Parkway obscures the road site and could become a safety issue.



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Commissioner Zermeño announced that the League of California Cities 2005 Annual Conference is scheduled from October 6 through the 8 at the Masonic Center in San Francisco. There are six different workshops.

APPROVAL OF MINUTES

Minutes of April 14, 2005

The minutes were unanimously approved.

ADJOURNMENT

Chair Sacks gave the opportunity to Commissioner to adjourn the meeting at 9:12 p.m.

APPROVED:

Julie McKillop, Secretary
Planning Commission

ATTEST:

Miriam Lens
Commissioner Secretary